burden requires of the defence — that the user was covered — in other words that had an accident occurred the insurance company would have been liable in the circumstances, even though this lady who, as far as the evidence goes has never held a driving licence, was in the driver's seat. An insurance accountant called for the defence was not prepared — probably very prudently — to express an opinion whether the Insurance company would be liable, and it seems to me the *prima facie* case that the user was uncovered established by the prosecution stood unrebutted. I have come to the conclusion, accordingly, the conviction was correct.

Regarding the circumstances broadly I cannot feel that this case was a very gross breach of the law. There is no evidence that any other party was endangered by the presence of this car on the road, and, while at many times of the day a Court might well infer the existence of such danger without any specific evidence on the matter, I do not think there is justification for assuming any danger was caused by this particular driving in Mountbatten Road shortly before 2 a.m. on a Tuesday morning. I confirm the fine, but as, having regard to these aspects I have just mentioned, it seems to me that this was a breach of the law more in the letter than in the spirit, I think a period of one month's driving licence disqualification from to-day's date will meet the requirements of the case.

Order accordingly.

Solicitors for the appellant: *L. Rayner & Co.*

Re CHNG KEE HUAT.

[O. Cr. J. (Murray-Aynsley C.J.) September 17, 1954]

[Singapore — Habeas Corpus Nos. 1 & 3 of 1954]

Banishment Ordinance (Cap. 25), s. 6 — Construction of — Writ of Habeas Corpus.

This was an application for a Writ of **Habeas Corpus ad Subjiciendum** under the provisions of Chapter XXXIII of the Criminal Procedure Code (Cap. 21) in the matter of Chng Kee Huat detained in Her Majesty's Civil Prison, Outram Road, Singapore, and to be expelled under section 6(1)(b) of the Banishment Ordinance. Section 6 of the Banishment Ordinance reads:

"6. — (1) The Governor in Council may make an order, in this Ordinance referred to as an expulsion order, requiring an alien to leave the Colony within a time fixed by the order and thereafter to remain out of the Colony for such period as to the Governor in Council seems expedient,

(a) if it is certified to him by any Court that the alien has been convicted of any offence for which the Court has power to impose a penalty without the option of a fine, and that the Court recommends that an expulsion order should be made in his case, either in addition to or in lieu of the sentence; and if it is also certified to him by the Court that the alien —

(i) has, within six months from the time at which the proceedings for the certificate were commenced, been convicted of being a vagrant in the Colony or in any of the States or countries included for the time being in the Schedule; or

(ii) has been sentenced in any of the States or countries included for the time being in the Schedule or in a foreign country for a crime, not being an offence of a political character, which is an offence under the Fugitive Offenders Act, 1881, or an extradition crime within the meaning of the Extradition Acts, 1870 and 1873.

(b) if he deems it to be conducive to the public good.

(2) ....."

Para (b) was added by an amendment made in 1928. In construing this section, —

Held: if one pays regard to the full stop at the end of section 6(1)(a), para. (b) of section 6(1) can have no meaning at all. If one disregards it, as one should in strictness do every time in construing a statute, then the only grammatical construction possible of the section is to make what occurs after (b) a qualification to the rest of the section.

APPLICATION for Writ of *Habeas Corpus.*

L. A. J. Smith for the applicant.

A. V. Winslow (Crown Counsel) for the Crown.

Cur. Adv. Vult.

Murray-Aynsley C.J. : — This is an application by a person who is clearly an alien within the meaning of section 6 of the Banishment Ordinance. That being so there remains to be considered a question of construction of the section. The conditions set out under (a) have not been fulfilled; it has to be considered whether what appears under (b) is a qualification of (a) or an alternative to it.

The amendment which added (b) in 1928 was apparently based on the United Kingdom Aliens Order, 1920, but in that case the word "or" was used. Here there is no "or" but the fullstop at the end of (a) was retained and remained there in the present revised edition although alterations were made in the section at that time. If one pays regards to the fullstop, (b) can have no meaning at all. If one disregards it, as one should in strictness do every time in construing a statute, then it seems to me that the only grammatical construction possible of the section is to make what occurs after (b) a qualification to the rest of the section.

The rule nisi must be made absolute.

Order accordingly.

Solicitors: *Donaldson & Burkinshaw.*

TNG GEOK CHUAN v. REGINA.

[A. Cr. J. (Murray-Aynsley C.J.) August 31, 1954]

[Singapore — Magistrate's Appeals Nos. 249 of 1953 & 68 of 1954]

Road Traffic Ordinance, 1941, ss. 21(3), 80(1) & 81 — Applying for a driving licence whilst disqualified — Making false declaration to obtain a driving licence — Accused illiterate in English — Importance of explaining declaration in application form — Form filled up by petition-writer.

In this case two charges were made arising on the same facts. The facts were that the accused whilst under disqualification applied for a driving licence by presenting his application in the prescribed form. The form was in English and contained 15 questions with blank spaces for the answers to be filled in. Question 11 was "Have you ever been, or are you, disqualified by any Court for holding or obtaining a driving licence or certificate of competency?....If so give particulars", and the answer given was "None." The application was approved and a Provisional Driving Licence was issued. He subsequently went for his driving test and passed, and was issued with a driving licence. He was firstly charged with making a false statement to obtain a driving licence and secondly with making an application for a driving licence whilst disqualified. They were tried separately at an interval of some months.

The defence on the first charge was that the form was filled by an unknown person to whom the accused paid 50 cents. The accused alleged that the writer did not ask him any questions. On the second charge the accused in his defence stated that when his licence was "suspended" it was not explained to him that he could not apply for a driving licence. The accused was sentenced to two months' rigorous imprisonment on the first charge, and on the second charge he was sentenced to three months' rigorous imprisonment.

Held: (1) in cases of making a false declaration, where the accused does not know English, it is important that the declaration should have been explained to him; (2) where it transpired that the material part of the declaration had not been explained to the person concerned, the conviction on making a false declaration could not be sustained.

MAGISTRATE'S APPEAL.

A. J. Braga for the appellant.

A. V. Winslow (Crown Counsel) for the respondent.

Murray-Aynsley C.J. : — In this case two charges were made arising on the same facts. They were tried separately at an interval of some months. The first charge was making a false statement to obtain a driving licence. The second was for making an application for a driving licence whilst disqualified. In cases of making a false declaration, where the accused does not know English, it is important that the declaration should have been explained to him. When the second charge was heard it transpired that the material part of the declaration had not been explained to the appellant. The form had been filled up by a petition-writer outside the office of the Registrar of Vehicles. The same witness had said on the hearing of the first charge that he had explained to the appellant the whole form. In the circumstances I considered that the conviction on the first charge could not be sustained. On the second charge there is no doubt that an offence was committed. I considered, however, that in the circumstances the penalty might be reduced.

Order accordingly.

Solicitors: *Braga & de Souza.*

O. K. NAIR v. REGINA.

[A. Cr. J. (Murray-Aynsley C.J.) May 19, 1954]

[Singapore — Magistrate's Appeal No. 25 of 1954]

Evidence — Evidence of character of accused.

In this case at the trial the appellant was cross-examined by counsel for a co-accused as to his character.

Held: the question was inadmissible and as it was wrongly admitted the conviction must be quashed.

MAGISTRATE'S APPEAL.

L. Rayner for the appellant.

A. V. Winslow (Crown Counsel) for the respondent.

Cur. Adv. Vult

Murray-Aynsley C.J. : — In this case the appellant and others with whom he was charged jointly for theft gave evidence on their own behalf. The appellant was cross-examined by counsel for a co-accused which would normally have been inadmissible as they concerned the character of the accused and were not otherwise relevant.

There is nothing here to correspond to (f) (iii) of section 1 of the Criminal Evidence Act, 1898. I consider therefore that the question was inadmissible.

Conviction quashed.

Solicitors for the appellant: *L. Rayner & Co.*